

determining an activity metabolic rate of the user while engaged in the activity using the indirect calorimeter;

correlating the resting metabolic rate of the user with the activity metabolic rate of the user to determine a metabolic rate correlation factor; and

using the metabolic rate correlation factor and sensed activity level in determining an activity caloric expenditure of the user when engaged in the activity.

**Claim 42 (previously added):** The method as set forth in claim 41 further including the step of recognizing a pattern in the activity level signal to identify the activity and correlate the activity with the activity caloric expenditure of the user.

**Claim 43 (previously added):** The method as set forth in claim 41 further including the step of using the metabolic rate correlation factor when the user subsequently engages in the activity.

**Claim 44 (previously added):** The method as set forth in claim 41 further including the step of sensing a start or an end of an activity using an activity sensing means.

**Claim 45 (previously added):** The method as set forth in claim 41 further including the step of using the activity energy expenditure and a resting energy expenditure in determining a total energy expenditure for the user.

#### REMARKS

With this amendment, claims 29 and 34-45 are pending. Claims 1-28 and 30-33 have been cancelled without prejudice to pursue in a later filed continuation, continuation in part, or divisional application. In the June 4, 2003 office action, the Examiner indicated that claims 34-45 were allowable as presented and that claim 29 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 29 has been so amended and is therefore in condition for allowance.

Since all of the previously rejected claims have been cancelled, and the remaining Examiner objections have been overcome, applicant respectfully submits that the application is in condition for allowance.

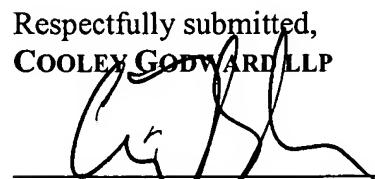
If the Examiner has any questions, please call the undersigned attorney of record to resolve any remaining issues.

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Respectfully submitted,  
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